

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

LONNIE WAYNE EDWARD MARONEY,

Plaintiff,

v.

3:08-cv-38

BRAD WARD,

Defendant.

**MEMORANDUM AND ORDER**

This is a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983, in which plaintiff alleges he was assaulted by jailer Brad Ward during his confinement in the Jefferson County Jail. The court allowed process to issue as to defendant Ward and dismissed as a defendant the Jefferson County Sheriff's Department because it is not a suable entity under § 1983. Plaintiff has now filed an amended complaint and names as defendants Sheriff David Davenport, Jail Administrator Merlin Forester, and an unknown chief deputy. For the following reasons, process shall not issue as to these defendants.

Plaintiff states that he wants to add Sheriff Davenport to the lawsuit since he cannot sue the Jefferson County Sheriff's Department. In a suit brought under § 1983, liability cannot be imposed solely on the basis of respondeat superior. *Polk County v. Dodson*, 454 U.S. 312, 325 (1981); *Bellamy v. Bradley*, 729 F.2d 416, 421 (6th Cir. 1984). The law is well-settled that a plaintiff must allege that a defendant official was personally involved in

the unconstitutional activity of a subordinate in order to state a claim against such a defendant. *Dunn v. State of Tennessee*, 697 F.2d 121, 128 (6th Cir. 1982). "[L]iability cannot be based solely on the right to control employees." *Leach v. Shelby County Sheriff*, 891 F.2d 1241, 1246 (6th Cir. 1989). Therefore, David Davenport is **DISMISSED** as a defendant.

Plaintiff's allegation against Merlin Forester and the "John Doe" defendant is that they were told of the assault and did nothing to the jailer. This allegation, without more, fails to state a claim for relief under § 1983. Accordingly, Merlin Forester and "John Doe" are **DISMISSED** as defendants.

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge